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May 10, 2023

**VIA ECF**

Honorable Pamela K. Chen, United States District Judge  
United States District Court for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *United States v. McMahon, et al.***  
**Docket No. 21-cr-265**

Dear Judge Chen:

We write, on behalf of defendant Michael McMahon, in response to the Court's Order of May 5, 2023, with regard to the Rule 15 deposition that the Court has allowed in the above-captioned matter. Specifically, we will not seek fees to attend the deposition here at issue. Indeed, given the circumstances, which is that we are only a few weeks before trial, at a critical time of trial preparation, and when we have just received large volumes of pretrial discovery, pre-marked exhibits, etc., we do not believe that it is in our client's interest for us to spend the time traveling across the country, and attending a deposition – a process that would likely take the better part of three days – and so our preference, again in response to Your Honor's inquiry, is to attend the deposition by zoom, which we understand is an option that is available.

In doing so, we do not waive our prior objection to conducting the examination of this witness by Rule 15 deposition, *see* ECF No. 205, particularly as opposed to live-streaming the testimony at trial – [REDACTED]

It should be noted in that regard that, [REDACTED]

[REDACTED] *See* ECF No. 202, Exhibit A. Under the circumstances, live-streamed testimony from a location near the witness's home, at which the parties will be in Court and therefore on equal footing; trial preparation will not be burdened; and objections can be ruled upon by Your Honor in real time and in the context of trial, remains, to us, the appropriate option. We have conferred with the Government with regard to that option and the Government disagrees. And, of course, we fully understand and respect that that the Court has ruled; given the current option, we will, as I said, therefore seek to participate by zoom or other appropriate remote platform.

Finally, with regard to date, I have spoken to Ms. Wong, counsel for defendant Congying Zheng, and Mr. Tung, counsel for defendant Zhu Yong; both agree with the position set forth

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above. Neither Ms. Wong nor Mr. Tung are available on May 17, 18, or 19, the dates next week proposed by the Government; I am not available either May 18 or May 19. That said, all three of us are available during the week of May 22, following jury selection; I have proposed those dates to the Government earlier today but have not yet heard back.

Thank you for your kind consideration of this matter.

Respectfully submitted,

s/ Lawrence Lustberg  
Lawrence S. Lustberg

cc: All counsel of record (via ECF)

## **Exhibit A**

**FILED UNDER SEAL**